

NOV 07 2006

NEBRASKA DEPARTMENT
OF INSURANCE

CAUSE NO. C-1537

JURISDICTION

3. The Department has jurisdiction over this matter pursuant to Neb. Rev. Stat. §44-701 through §44-7,101, the Unfair Trade Practices Act, Neb. Rev. Stat. §44-1523 to §44-1535, the Unfair Insurance Claims Settlement Practices Act, Neb. Rev. Stat. §44-1536 to §44-

1544, the Medicare Supplement Minimum Standards Act, Neb. Rev. Stat. §44-3601 to §44-3610, the Long-Term Care Insurance Act, Neb. Rev. Stat. §44-4501 et seq., the Insurers Examination Act, Neb. Rev. Stat. §44-5901 to §44-5910, Title 210 NAC Ch. 19, Title 210 NAC Ch. 33, Title 210 NAC Ch. 46 and Title 210 NAC Ch. 61.

STIPULATIONS OF FACT

1. The Department initiated this administrative proceeding by filing a petition styled State of Nebraska Department of Insurance vs. National States Insurance Company, Cause Number C-1537 on December 22, 2005. A copy of the petition was served upon the Respondent, at the Respondent's address registered with the Department by certified mail, return receipt requested.

2. The petition alleges that Respondent violated Neb. Rev. Stat. §§44-703, 44-1524, 44-1525(11), 44-1539, 44-1540(4), 44-1540(6), 44-5905(2)(a), 44-5905(2)(b)(i)(B), 44-5905(2)(b)(ii), Title 210 NAC Ch. 19 (008.02A), Title 210 NAC Ch. 19 (008.02B), Title 210 NAC Ch. 19 (008.03), Title 210 NAC Ch. 33 (005.01), Title 210 NAC Ch. 46 (012.05), Title 210 NAC Ch. 61 (006.02), Title 210 NAC Ch. 61 (008.01), Title 210 NAC Ch. 61 (008.02), Title 210 NAC Ch. 61 (008.03), Title 210 NAC Ch. 61 (008.04) as a result of the following conduct:

- a. The report details the scope of the examination, tests conducted, results and recommendations. The examination revealed several violations of law including but not limited to the following:
 - i. One file reviewed by the examiners demonstrated that Respondent could not produce the letter that advised the insured of a possible lapse on the automatic premium payment plan per the requirements of Neb. Rev. Stat. §44-5905(2)(b)(i)(B).
 - ii. Two newly issued life files were not properly documented as required by Neb. Rev. Stat. §44-5905(2)(b)(i)(B) to ensure proper

bank deductions were made. As a result the annual premium was deducted when the application requested quarterly withdraws.

- iii. The Department of Insurance's Data Call for Life and Long-Term Care Cancelled and Lapsed Policies requested that the listings include all policies that were cancelled during the free look period. The Data Call document mandated that Respondent contact the Department immediately if the information could not be provided as requested. Respondent did not inform the Department prior to the examination that they could not provide the listings per the request and in violation of Neb. Rev. Stat. §44-1525(11). The market conduct examination was in progress when the examiners discovered that the cancelled/lapsed listings did not include the policies that were cancelled during the free look period. Additionally, Respondent did not advise the examiners that the information could be obtained from their computer system for review. Near the conclusion of the examination, Respondent provided some information for one file that should have been made available for all files reviewed by the examiners. The examiner needed all of the information to properly review the files at the time of examination per the requirements of Neb. Rev. Stat. §44-5905(2)(a)
- iv. In a compliant concerning two death claim denials for a husband and wife, Respondent did not respond to the denied death claim of the wife for over thirty days. Additionally, the information provided in the response to the claimant by Respondent for the husband was incorrect and was in violation of Title 210 NAC Ch. 61 (008.01).
- v. In one life file reviewed by the examiners, Respondent did not provide the existing insurer with their policy's contract number and/or application or receipt number as required by Title 210 NAC Ch. 19 (008.02A) and Title 210 NAC Ch. 19 (008.02B).
- vi. In a declined life policy, Respondent did not provide the existing insurer with a written communication advising of the replacement or proposed replacement and the identification information obtained pursuant to Title 210 NAC Ch. 19 (008.02A) and a copy of any Policy Summary or illustration provided to the insured pursuant to the Life Insurance Solicitation Regulation, Rule 33 or the Life Insurance Illustrations Regulation, Rule 72 as required by Title 210 NAC Ch. 19 (008.02B).

- vii. In two life files, the Respondent failed to comply with Title 210 NAC Ch. 19 (008.02B) by not advising the existing insurer of the proposed replacement within three working days.
- viii. Four life files did not clearly identify that a copy of the replacement form and Policy Summary were sent to the existing insurers pursuant to Title 210 NAC Ch. 19 Section 008.
- ix. In three (3) separate Long-Term Care external replacements files, the examiners found that Respondent did not identify the existing policy to the existing insurer as required by Title 210 NAC Ch. 46 (012.05).
- x. The Respondent's Life Insurance Buyer's Guide did not include the month and year of printing as required by Title 210 NAC Ch. 33 (Appendix).
- xi. The examiners found three denied claims that revealed a processing delay in violation of Title 210 NAC Ch. 61 (008.02). Respondent told the examiners that they did not have a claim suspense system in place, that claims are entered into the system and either paid, denied or a request is made for additional information. Claims are processed in the order they are received. A similar claim delay issue was noted in the prior Market Conduct Examination report filed February 18, 1999. At that time, Respondent told the Nebraska Department of Insurance "It is attempting to reduce the turnover of employees in its Claim department which has resulted in a backlog situations and hopes to improve on its average claim processing time of twenty-four working days."
- xii. In another file reviewed by the examiners, Respondent did not provide a written explanation setting forth the reasons additional time was needed for investigation within thirty working days from the initial notification of the claim as required by Title 210 NAC Ch. 61 (008.02).
- xiii. In three (3) claims that were denied as duplicate billings for Medicare Supplement matters, Respondent did not make a determination that the claims were duplicates within the 15 day requirement nor did the Respondent provide a written explanation setting forth the reasons additional time was needed for investigation within thirty working days from the initial notification of the claim as required by Title 210 NAC Ch. 61 (008.02).

- xiv. In a Medicare Supplement paid claim file, Respondent did not provide the insured with a written explanation after fifteen days of the receipt of the loss and the claim was not paid within the required fifteen days as required by Title 210 Ch. NAC 61 (008.02).
- xv. In a denied Medicare Supplement claim, the written denial was not sent within fifteen working days of the determination as required by Title 210 NAC Ch. 61 (008.01).
- xvi. In a separate Medicare Supplement file, Respondent sent out a denial letter on a paid claim forty-one days after receiving a duplicate bill. Another file revealed the denial letter was sent thirty-five working days after date of receipt of the claim in violation of Nebraska Rules and Regulations, specifically Title 210 NAC Ch. 61 (008.01).
- xvii. In two (2) Long-Term care claims paid files, benefits were not processed within the time frames of Title 210 NAC Ch. 61 (008.03).
- xviii. In three (3) Medicare Supplement paid files, three claims were not processed within the time requirements of Title 210 NAC Ch. 61 (008.03). On one claim file, Respondent did not settle the claim within 15 days as required by Title 210 NAC Ch. 61 (008.03).
- xix. In three (3) Long-Term Care paid claims, Respondent's explanation of benefit form did not provide the insured with sufficient explanation of the computation of benefits as required by Title 210 NAC Ch. 61 (008.04).
- xx. In two (2) paid Medicare Supplement claims, the explanation of benefits statements did not include the amount charged or a reasonable explanation of the computation of benefits as required by Title 210 NAC Ch. 61 (008.04).
- xxi. The examiners found in a file that an explanation of benefits provided to an insured by Respondent did not provide the amount charged or a reasonable explanation of the computation of benefits as required by Title 210 NAC Ch. 61 (008.04).

3. Respondent was informed of the right to a public hearing. Respondent waives that right, and enters into this Consent Order freely and voluntarily. Respondent understands and

acknowledges that by waiving its right to a public hearing, Respondent also waives its right to confrontation of witnesses, production of evidence, and judicial review.

4. Respondent neither admits nor denies the allegations restated in Paragraph #2 above, but voluntarily enters into this Consent Order and agrees to be bound by the provisions of this Consent Order.

CONCLUSIONS OF LAW


The conduct of Respondent, as alleged above, constitutes a violation of Neb. Rev. Stat. §§44-703, 44-1524, 44-1525(11), 44-1539, 44-1540(4), 44-1540(6), 44-5905(2)(a), 44-5905(2)(b)(i)(B), 44-5905(2)(b)(ii), Title 210 NAC Ch. 19 (008.02A), Title 210 NAC Ch. 19 (008.02B), Title 210 NAC Ch. 19 (008.03), Title 210 NAC Ch. 33 (005.01), Title 210 NAC Ch. 46 (012.05), Title 210 NAC Ch. 61 (006.02), Title 210 NAC Ch. 61 (008.01), Title 210 NAC Ch. 61 (008.02), Title 210 NAC Ch. 61 (008.03), Title 210 NAC Ch. 61 (008.04).

CONSENT ORDER

It is therefore ordered by the Director of Insurance and agreed to by Respondent, that Respondent shall pay an administrative fine in the amount of \$12,500 dollars (\$12,500). Respondent shall pay the \$12,500 fine within thirty days of the approval of this consent order by the Director or his designee. Respondent also agrees to provide a copy of a letter advising insurers of proposed replacement, a copy of the current Life Insurance Buyer's Guide, a copy of the filed and approved Form PAL-1(02)R, a copy of "Claim Processing Guidelines-Long-Term Care and Home Health, a copy of current Explanation of Benefits used for Long-Term Care and Medicare Supplement claims and must also supply verification of the timely handling of claims. If Respondent fails to pay the \$12,500 fine and provide the abovementioned information within thirty days after approval of the consent order by the Director or his designee, Respondent shall be subject

to additional fines and penalties. The Nebraska Department of Insurance shall retain jurisdiction of this matter for the purpose of enabling the Respondent or the Department to make application for such further orders as may be necessary.

In witness of their intention to be bound by this Consent Order, each party has executed this consent order by subscribing their signatures below.



Martin W. Swanson, #20795
Department of Insurance
941 "O" Street, Suite 400
Lincoln, Nebraska 68508
(402) 471-2201

7 Nov 06


Date



National States Insurance Company

10/31/06

Date



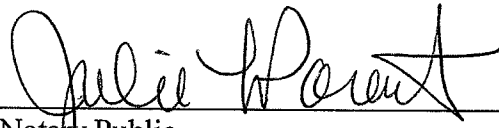
Attorney for National States Insurance
Company

11/1/06

Date

State of Missouri)
County of St Louis) ss.

On this 31st day of October, 2006, National States Insurance Company personally appeared before me and read this Consent Order, executed the same and acknowledged the same to be his voluntary act and deed.




Notary Public

JULIE L. PARENT
Notary Public — Notary Seal
STATE OF MISSOURI
St. Louis County
My Commission Expires: Oct. 3, 2008
Commission # 04546579

CERTIFICATE OF ADOPTION

I hereby certify that the foregoing Consent Order is adopted as the Final Order of the Nebraska Department of Insurance in the matter of State of Nebraska Department of Insurance vs. National States Insurance Company, Cause No. C-1537.

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE



L. TIM WAGNER
Director of Insurance

11/17/06
Date

CERTIFICATE OF SERVICE

I hereby certify that a copy of the executed Consent Order was sent to the Respondent's attorney, John P. Grant, at Grant Law Offices, P.C., 3717 Harney Street, Omaha, Nebraska 68131, by certified mail, return receipt requested, on this 8th day of November, 2006.

